

JOSEPH L. McGAUVICK
Chairman

KE MURPHY
Board Member

JACK RABOURN
Board Member



STATE OF WASHINGTON

WASHINGTON STATE LIQUOR CONTROL BOARD

1025 E Union • PO Box 43075 • Olympia WA 98504-3075 • (360) 753-6262

April 17, 1995

TO: The Board
FROM: Carter
RE: ADDENDUM TO RULE MAKING REQUEST FROM WASHINGTON WINE
INSTITUTE

On March 14, WWI asked for the Board to consider a change to WAC 314-24-220 to allow agents of wineries to pick up wine and deliver it to retail accounts. On March 30, Simon Siegl wrote another letter asking for the Board to interpret "premises" in such a manner as to allow the agent to pick up small amounts of wine and deliver it to retail accounts. (copy attached)

Under WACs 314-08-560 and 314-08-570, the Board is required to take such requests under consideration and make a decision whether or not to entertain the request. The second WAC requires the Board to convey the decision to the requesting party.

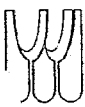
In support of the Washington Wine Institute's request for rule making, Jack Worden has submitted the attached letter. Mr. Worden's letter will be made part of the petition file and, if the Board decides to entertain rule making, copied into that file as well. Please advise if you want me to file the 101 Preproposal or Intent form with the Code Reviser. If you do not wish to entertain rule making, please route me a copy of the rejection letter for the file.

cc: Board Members
Dave Goyette
Rich Raico
Kim O'Neal

DEFENDANT'S EXHIBIT	
CASE NO.	C04-0360P
EXHIBIT NO.	521

Resp to Costco RFP
5967

TX521-001



WASHINGTON WINE INSTITUTE

Avenue, Room 510 • Seattle, Washington 98101 • (206) 441-1892

March 30, 1995

Joe McGavick, Chairman
Michael Murphy, Board Member
Jack Rabourn, Board Member
Washington State Liquor Control Board
1025 E. Union
Olympia, WA 98504

RE: Removals from bonded warehouse by Washington wineries

Gentlemen:

The Washington Wine Institute requested, on March 14, a regulatory change in WAC 314.24.220 to clarify and allow removals from a bonded warehouse by Washington wineries. We did so after conferring with the Washington Beer and Wine Wholesalers Association on their concerns in the matter. They indicated they would not object to the proposed changes if certain aspects were clarified, which I provided in detail in my letter of March 14.

I have learned that the sequence of events and required notice periods established in the new rulemaking procedures established in RCW 10.08.260 will create a lengthy process of work for your staff and cause another eighteen weeks of delay for the wineries who have sought relief in this area. Before heading into this cycle, I would respectfully suggest that the same end result we seek can be accommodated by an interpretation of one word in the current rules. As has been suggested before, the word "winery" in this instance is not modified by "premises," yet the current interpretation by Enforcement staff and indicates the assumption of "premises," which deprives wineries of an important means of access to western Washington markets.

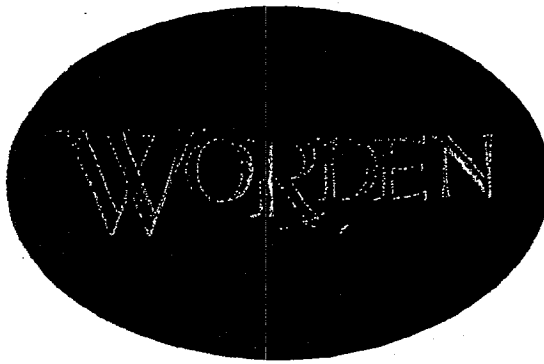
We would appreciate your seeking an opinion of the Assistant Attorney General on whether this approach can be done, as it would save everyone a lot of wasteful procedural process and time.

Sincerely,

Simon Siegl
Executive Director

Resp to Costco RFP
5968

TX521-002



April 11, 1995

RECEIVED
APR 17 1995
RECEPTION DESK

Carter Mitchell
WSLCB
1025 E. Union Street
Olympia, WA 98504

Dear Mr. Mitchell:

Worden's Winery does more private wine labels for restaurants and country clubs than any other winery in the state. The distributors in this state are consolidating and do not have time to deliver small quantities of private labeled wine. We have been told over and over again that they will not handle our private labeled wine.


The states interpretation of WAC 314.24.220 restrains the sale of Washington wines to Washington customers. Please allow us to store our wine at a bonded wine warehouse and have authorized winery agents remove the wine from this premise.

The distributors are in agreement as long as restaurants and other wholesale accounts cannot pick up. We see little disagreement.

Currently, we are dealing with restraint of trade against small wineries.

Thanks in advance.

Sincerely,



Jack W. Worden
President

JWW/rlr

Resp to Costco RFP
5969

Latah Creek Wine Cellars
East 13030 Indiana Avenue
Spokane, Washington 99216
Telephone (509) 926-0164
Fax (509) 926-0710



Joe McGavick, Chairman
W.S.L.C.B.
1025 E. Union Ave.
Olympia, WA 98504

April 17, 1995

Dear Mr. McGavick,

Reference: WAC 314.24.220

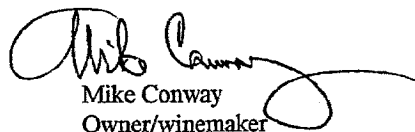
As a past president of the Washington Wine Institute, I know the Board's interpretation of this particular regulation has been a source of discussion within our wine industry for quite some time. The inability for wineries to pull inventory direct from Tiger Mountain Services (or any other authorized off-premises bonded storage facility) and deliver directly to a retail licensee has caused much hardship for some within our industry. I know myself and other wineries in this state would appreciate the Board looking more closely at their current interpretation of this WAC.

Those of us who store wine at Tiger Mountain Services do so for many different reasons but the most common are convenience and cost. Many smaller wineries such as ourselves have a handful of wholesalers that sell our wine throughout the state. Most of these wholesalers are located in Western Washington while the wineries are located in Eastern Washington. Except from the very large wineries, these wholesalers do not and can not pick up wine direct from the winery. The small quantities most are dealing with make direct-from-the-winery shipments impossible because of the associated transportation costs. TMS offers us, and the other wineries in this state, the ability to store wines at a convenient west side location. Without TMS, many wineries would not be able to do business anywhere in the state except close to home.

The dilemma for us involves the Board's current interpretation regarding these pick ups. Currently wineries are excluded from being able to pick up and distribute their own wines directly from TMS. They must first take that wine which was removed from TMS back to their own winery premises - they can then sell it directly to a retail licensee. The Board does allow though any Washington State licensed wine wholesaler to pick up wine from TMS and deliver it directly to a retail licensee without any restrictions. But we as a winery with wholesale wine privileges, aren't allowed that same option. Some of the smaller wineries not able to get wholesale representation, or other wineries who have opted to sell direct to retail licensees themselves, are being restricted just because of this interpretation. We believe that our ability to wholesale direct should be no different than someone else's ability to wholesale direct.

What we as an industry are requesting does not require statute or regulatory changes - it simply requires a different interpretation of existing laws. I would greatly appreciate the Board's reviewing this issue.

Sincerely,



Mike Conway
Owner/winemaker

cc Michael Murphy, Board Member
✓ Jack Rabourn, Board Member
Carter Mitchell

Resp to Costco RFP
5970

TX521-004



WASHINGTON WINE INSTITUTE

1st Avenue, Room 510 • Seattle, Washington 98101 • (206) 441-1892

March 14, 1995

Joe McGavick, Chairman
Michael Murphy, Board Member
Jack Rabourn, Board Member
Washington State Liquor Control Board
1025 E. Union
Olympia, WA 98504

RE: Removals from bonded warehouse by Washington wineries

Gentlemen:

The Washington Wine Institute, at the request of its 50 winery members, seeks a regulatory change in WAC 314.24.220 to clarify and allow removals from a bonded warehouse by Washington wineries.

It is our premise that nothing in the statutes or regulations prohibits delivery of wine by a Washington winery to a retail or restaurant account with an interim stop at a bonded warehouse. With regard to removals from a bonded warehouse, it has been the practice of the enforcement division to apply a narrow interpretation of "winery", that is, the physical premises. In this case, though, the statute says "winery", and does not stipulate "premises" as it does in other situations.

As you will remember, this issue was raised and discussed at your 'open agenda' meeting last October 26th. At the conclusion of discussion on this item, you encouraged members of our group to meet with representatives of the Washington Beer & Wine Wholesalers Association to discuss the issue and seek a mutually agreeable solution that the Liquor Board could approve, rather than have to mediate between us. We did pursue such a meeting and discussed the ramifications of the proposal with the Wholesalers Association on November 29th.

Following our small group meeting, representatives of the Wholesalers Association sought the opportunity to raise it at their next full membership meeting, which was held January 31st. The report back from the Wholesalers Association is that they would not object to the proposed changes if the certain aspects were clarified. We are pleased to report back to you our agreement with their principal request, that removals be limited to domestic wineries and their registered agents only — no retail customer or representative should be picking up from the warehouse. The purpose of a subsequent point raised by the Wholesalers — that the number of agents a winery may register be limited — can be assumed in the intent of the prior item. The regulation on agents does not currently specify a certain minimum or maximum number, and it is not clear what would be gained by doing so.

Resp to Costco RFP
5971

TX521-005

A further suggestion made by the Wholesalers — to limit the number of warehouses from which wineries may make such removals — is not in the interest of our proposal, and we are reluctant to endorse it as it would have diverse impacts on WSLCB responsibility for administration and enforcement. A final item proposed by the Wholesalers is to limit the number of cases a winery may remove. We find this problematic because it both erodes the very purpose of our request and presents significant regulatory burden on the WSLCB.

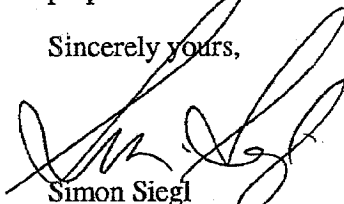
We offer the following language for your consideration as a modification of WAC 314-24-220

Section (5):

Removals of wine from the bonded wine warehouse may be made only for shipment to a licensed Washington wine wholesaler, to another licensed bonded wine warehouse, to the liquor control board, or to a licensed location out of state, or for return to the producing domestic winery licensee within the state of Washington. For the purposes of this section, "domestic winery licensee" includes the licensed entity and its officers, partners and/or licensed agents. Domestic winery licensees may deliver wines by shipping bottled wine to bonded wine warehouses, before or after accepting an order therefor, and completing delivery to the purchasing wholesale or retail licensee by accepting return of such wine at the bonded wine warehouse and transporting such wine directly from such bonded wine warehouse to the premises of the purchaser. Invoicing...

This issue is of importance and priority to WWI's winery members. We all prefer an amicable proposal to come from this process in a timely fashion, as you suggest.

Sincerely yours,



Simon Siegl
Executive Director